

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by:

Developer PATRICIA A. EWING, Trustee

Business Address P. O. Box 748, Kilauea, Kauai, Hawaii 96754

Project Name (*): WATERFALL FARMS

Address: Lot 13, Kalihiwai Ridge Subdivision, Kalihiwai, Hanalei, Hawaii

Registration No. 4089

Effective date: August 6, 2007

Expiration date: September 6, 2008

Preparation of this Report:

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

Buyers are encouraged to read this report carefully, and to seek professional advice before signing a sales contract for the purchase of an apartment in the project.

Expiration Date of Reports: Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the effective date unless a Supplementary Public Report is issued or unless the Commission issues an order, a copy of which is attached to this report, extending the effective date for the report.

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

Type of Report:

- | | | |
|-------------------------------------|--|---|
| <input type="checkbox"/> | PRELIMINARY:
(yellow) | The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued by the developer when complete information is filed. |
| <input type="checkbox"/> | FINAL:
(white) | The developer has legally created a condominium and has filed complete information with the Commission.
[] No prior reports have been issued.
[] This report supersedes all prior public reports.
[] This report must be read together with _____ |
| <input type="checkbox"/> | SECOND | |
| <input checked="" type="checkbox"/> | SUPPLEMENTARY:
(pink) | This report updates information contained in the:
[] Preliminary Public Report dated: _____
[] Final Public Report dated: _____
<input checked="" type="checkbox"/> Supplementary Public Report dated: <u>December 20, 2005</u> |
| | And | [] Supersedes all prior public reports.
[X] Must be read together with <u>Supplementary Public Report</u>
[X] This report reactivates the <u>Supplementary</u>
public report(s) which expired on <u>January 20, 2007</u> |

(*) Exactly as named in the Declaration

This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.

FORM: RECO-30 286/986/189/1190/892/0197/1098/0800/0203/0104/0107

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

☐ Required and attached to this report ☒ Not Required - disclosure covered in this report.

Summary of Changes from Earlier Public Reports:

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all inclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

☐ No prior reports have been issued by the developer.

☒ Changes made are as follows:

1. Since the issuance of the Supplementary Public Report on December 20, 2005, the following additional encumbrances were recorded against Unit B in the Project:
 - A) Mortgage dated December 14, 2005 in favor of Federal Land Bank Association of Hawaii, FLCA; and
 - B) Grant of Easement in favor of Kauai Island Utility Cooperative.
2. Developer only owns Unit B in the Project.
3. Only the following pages are attached to the Public Report: 1, 2, 5, 14, 15, 19, 21 and Exhibit "F".

The Developer's Supplementary Public Report expired on January 20, 2007. Pursuant to section 16-107-19, Hawaii Administrative Rules, Sales Contracts executed during the period that the public report was not in effect may be rescinded at the option of the purchaser and all monies refunded to the purchaser. The purchaser's right to rescind under this rule shall be void thirty (30) days after receipt of written notification of these rights from the Developer or his real estate agent.

I. PERSONS CONNECTED WITH THE PROJECT

Developer: PATRICIA A. EWING, Trustee Phone: (808) 826-5137
Name (Business)
P. O. Box 748
Business Address
Kilauea, Kauai, Hawaii 96754

Names of officers and directors of developers who are corporations; general partners of a partnership; partners of a Limited Liability Partnership (LLP); or manager and members of a Limited Liability Company (LLC) (attach separate sheet if necessary)

Not Applicable

Real Estate Broker: None - See Page 20 Phone: _____
Name (Business)
Business Address

Escrow: First Hawaii Title Corporation Phone: (808) 245-1608
Name (Business)
3016 Umi Street
Business Address
Lihue, Kauai, Hawaii 96766

General Contractor: William E. Chase, dba
On-Center Construction Phone: (808) 828-1476
Name (Business)
P. O. Box 691
Business Address
Kilauea, Hawaii 96754

Condominium Managing Agent: Self-Managed by the Associatoin of Unit Owners Phone: _____
Name (Business)
Business Address

Attorney for Developer: Michael H. Sakai Phone: (808) 531-4171
Name (Business)
201 Merchant Street, Suite 902
Business Address
Honolulu, Hawaii 96813

2. Limited Common Elements: Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments.

☐ There are no limited common elements in this project.

☒ The limited common elements and the apartments which use them, as described in the Declaration, are:

☒ described in Exhibit E*.

☐ as follows:

*NOTE: Land area referenced herein are not legally subdivided lots.

3. Common Interest: Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest". It is used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

☒ described in Exhibit C.

☐ as follows:

- E. Encumbrances Against Title: An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of an apartment in the project.

Exhibit F describes the encumbrances against the title contained in the title report dated May 24, 2007 and issued by Title Guaranty of Hawaii, Inc.

Blanket Liens:

A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project that secures some type of monetary debt (such as a loan) or other obligation. A blanket lien is usually released on an apartment-by-apartment basis upon payment of specific sums so that individual apartments can be conveyed to buyers free and clear of the lien.

☐ There are no blanket liens affecting title to the individual apartments.

☒ There are blanket liens which may affect title to the individual apartments.

Blanket liens (except for improvement district or utility assessments) must be released before the developer conveys the apartment to a buyer. The buyer's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the apartment to buyer.

Type of Lien

Effect on Buyer's Interest and Deposit if Developer Defaults
or Lien is Foreclosed Prior to Conveyance

Mortgage

If the Developer defaults, the unit may be foreclosed upon. If this happens, purchasers contract will be cancelled and all deposits will be returned.

F. Construction Warranties:

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

1. Building and Other Improvements:

None. There are no warranties, express or implied.

2. Appliances:

None. There are no warranties, express or implied.

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Reports issued by the developer which have been issued an effective date by the Hawaii Real Estate Commission.
 - B) Declaration of Condominium Property Regime, as amended.
 - C) Bylaws of the Association of Apartment Owners, as amended.
 - D) House Rules, if any.
 - E) Condominium Map, as amended.
 - F) Escrow Agreement.
 - G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
 - H) Other _____

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer or through the developer's sales agent, if any. The Condominium Property Regime law (Chapter 514A, HRS) and the Administrative Rules (Chapter 107) are available online. Please refer to the following sites:

Website to access official copy of laws: www.capitol.hawaii.gov

Website to access unofficial copy of laws: www.hawaii.gov/dcca/hrs

Website to access rules: www.hawaii.gov/dcca/har

This Public Report is a part of Registration No. 4089 filed with the Real Estate Commission on December 16, 1998.

Reproduction of Report. When reproduced, this report must be on:

☐ YELLOW paper stock

☐ WHITE paper stock

☒ PINK paper stock

- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-1.6]. (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

PATRICIA A. EWING, Trustee

Printed Name of Developer

By: Patricia A. Ewing 7/15/07
Duly Authorized Signatory* Date

PATRICIA A. EWING, Trustee-Developer

Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Kauai
Planning Department, County of Kauai

*Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner; Limited Liability Company (LLC) by the manager or member; and for an individual by the individual.

EXHIBIT "F"

Encumbrances Against Title

1. Title to all minerals and metallic mines reserved to the State of Hawaii.
2. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.
3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Agreement dated March 16, 1977, recorded in the Bureau of Conveyances, State of Hawaii, in Book 12110, Page 330. The foregoing includes, but is not limited to, matters relating to the use of the land for agricultural purposes.
4. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Declaration of Protective Covenants, Conditions and Restrictions for Kalihiwai Ridge, dated October 3, 1988, recorded in said Bureau, in Book 22452, Page 429.

Said Declaration was amended by instrument the following:

<u>DATED:</u>	<u>DOCUMENT NO.:</u>
July 5, 1990	90-104733
November 7, 1991	91-155979
August 9, 1993	94-037305
—	99-196189

5. Unrecorded Kalihiwai Ridge Environmental Design Rules and Guidelines Pursuant to Declaration of Protective Covenants, Conditions and Restrictions for Kalihiwai Ridge dated October 12, 1988, as amended.
6. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Declaration dated October 3, 1988, recorded in said Bureau, in Book 22452, Page 486.
7. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Agreement to Incorporate Agricultural Restrictions into Instruments of Conveyance, dated September 30, 1988, recorded in said Bureau, in Book 22452, Page 491.
8. A Certified Land Use District Boundary, February 6, 1987, of Conservation District, as shown on File Plan No. 1934.
9. The terms and provisions, including the failure to comply with any covenants,

conditions and reservations, contained in the Deed dated November 15, 1988, recorded in said Bureau, in Book 22572, Page 436.

10. Waiver and Release dated July 20, 1998, with the County of Kauai, in re: water service, recorded in said Bureau, as Document No. 98-106633.

11. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Declaration dated September 8, 1998, recorded in said Bureau, as Document No. 98-155022.

12. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Declaration of Condominium Property Regime for "Waterfall Farms" Condominium Project dated September 8, 1998, recorded in said Bureau, as Document No. 98-155186.

Condominium Map No. 2808, and any amendments thereto.

Said Declaration was amended as follows:

<u>DATED:</u>	<u>DOCUMENT NO:</u>
December 7, 1998	98-186548
—	98-033342
—	99-105054

13. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the By-Laws of the Association of Apartment Owners dated September 8, 1998, recorded in said Bureau, as Document No. 98-155187.

14. Setback (50 feet wide) for building purposes, as shown on surveyor's map prepared by Ronald J. Wagner with Wagner Engineering Services, Inc., dated June 1, 1998, as amended and more particularly described in instrument — (acknowledged June 10, 1999 and June 21, 1999), recorded as Document No. 99-105054.

15. Designation of Easement "V-2" for viewplane purposes, as shown on surveyor's map prepared by Ronald J. Wagner with Wagner Engineering Services, Inc., dated June 1, 1998, as amended and more particularly described in instrument — (acknowledged June 10, 1999 and June 21, 1999), recorded as Document No. 99-105054.

16. Mortgage dated December 14, 2005, in favor of Federal Land Bank of Hawaii, FLCA, a corporation organized and existing under the laws of the United States of America, recorded in said Bureau, as Document No. 2005-263244.

17. Grant in favor of Kauai Island Utility Cooperative, a cooperative association formed pursuant to the provisions of Chapter 421C of the Hawaii Revised Statutes, dated November 1, 2006, granting a perpetual right and easement over and across Easement "U-1" for utility purposes, recorded in said Bureau, as Document No. 2007-044085.